

LAW SCHOOLS

Law School N-Word Controversy Is More Complicated Than It Appears At First Glance

This is unlike other stories about law school professors using the n-word.

By [KATHRYN RUBINO](#)

January 13, 2021 at 4:53 PM

81
SHARES



(Image via Getty)

I spend an unfortunate amount of time [writing about law school professors' use of the n-word](#). You might think that it wouldn't come up that often, but you'd be wrong, very wrong. What is it about the thrill of impropriety that makes white law professor don a cloak of "academic freedom" and just let the full n-word fly?

Anyway, so when Above the Law received word about UIC John Marshall Law Professor Jason Kilborn's "dark and vile verbiage on a Civil Procedure II exam" and that the question at-issue "contained a racial pejorative summarized as follows: "n____' and 'b____' (profane expressions for African Americans and women)"" I fired up my keyboard and got ready to go after the prof. But, as I dug into the issue, it became clear there was a lot more going on.

[The petition](#) is a call to action for "Insensitive and Racist Content" on the exam, and when I initially read the petition, my impression was that the professor had used the full slur on the exam. (And I bet a lot of other people that read — and potentially signed — the petition thought that too.) But that petition does not "summarize[]" the exam as it purports to do — it provides a direct quote. By that I mean the exam did not use the full n-word (or the b-word for that matter), opting instead for the euphemism. Which is... the exact sort of adaptation and awareness of potentially traumatic racial issues that folks have historically asked for when professors claim the right to drop the full n-word just because it's an academic setting.

No one wants to be in a place where discussing the way racism shapes the legal system is off limits. Turn on the news and it's very clear that white supremacy is far from behind us and continues to impact the law. Legal education needs to have these admittedly difficult discussions but finding the right balance is essential. ✕

Kilborn provided the following context for the decision to use the question (and he notes he's used the same question with the euphemism for 10 years without incident):

Employment discrimination is among the most common topics of federal civil litigation, and our textbook authors use that context frequently, so it's certainly appropriately contextual. I was also trying to acknowledge the challenges that women of color still face in the workplace and the important role of civil procedure in discovering and addressing these wrongs. The only question seems to be whether it was problematic for me to be specific (in abbreviated form, to avoid actually using these horrible words) about what the manager had heard others say. I don't want to make anyone feel unnecessarily distressed during a high-stakes exam, but I am just flabbergasted at the reaction here for the first time in ten years of consistently administering this very question to classes every bit as diverse as the one that sat for this exam this semester (though I have no idea exactly WHO is reacting in this way or why, as no one from the leadership of this campaign against me has attempted to communicate with me in any way).

Sponsored



Stuck Drafting A Tough Brief? This Tool Can Help.



The State Of Today's Corporate Law Departments



What Do Millennials Think Of Law Firm Life?

As a white person, I cannot know what it'd be like to read an abbreviated form of the slur on an exam. And according to the Black Law Students Association at the law school, students taking the exam were upset by the language:

***UIC John Marshall Civ Pro II Exam
by Prof. Kilborn Fall 2020**

@uic_jmls_blsa

• Excerpt from UIC JMLS Student
Coalition's statement sent to
Dean Dickerson and Chancellor
Amiridis on 12.21.20

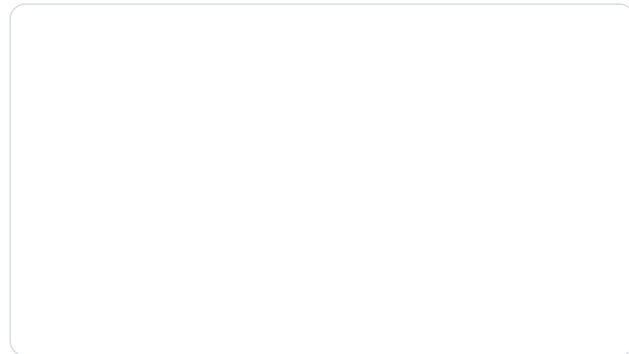
ANOTHER STUDENT STATED THAT
UPON READING "N____" "B____"
ON THE EXAM SHE BECAME
"INCREDIBLY UPSET" AND IMMEDIATELY
BEGAN TO EXPERIENCE
"HEART PALPITATIONS."

And here's BLSA's full statement on the issue:

UIC JMLS Black Law Student Association
@uic_jmls_blsa · [Follow](#)



BLSA would like to call to attention the inexcusable usage of "N____" and "B____" on a Civil Procedure II Exam. This slur shocked students and created a huge distraction from taking the exam.



6:34 AM · Dec 30, 2020



[Read the full conversation on Twitter](#)

♥ 30 💬 Reply ↗ Share

[Read 18 replies](#)

Unlike other professors who have been confronted with inappropriate language, Kilborn did not trot out [the academic freedom trope](#), or insist he knew what's [best for students](#) or sue the law school for [reverse discrimination](#) (all actual reactions from professors, natch). He seems genuinely distressed about the entire affair, and has apologized for using the abbreviated form of the word on the test (something else law profs [aren't known for](#)). Kilborn told Above the Law:



Legal Knowledge Management To Drive Dealmaking



Understanding Big Law: A Must-Read Guide To One Of The Most Challenging Workplaces In The World Is Now Available

I am fully prepared to accept responsibility for using a context and first-letter abbreviated reference that caused anyone to feel distressed—I absolutely did not and do not want this, I’ve expressed regret for it, and I’ve learned something valuable here. But the right way for BLSA and others to react here is anything other than what they’ve done, and I hope you don’t further this unnecessary, unwarranted, and unconstructive attack on me. If someone inadvertently bumps into you on the street and says “hey, sorry about that” quickly, I hope none of us believes the appropriate response is to pounce on that person, beat them mercilessly, and disseminate all manner of invective about them to their employer and all over the internet. BLSA has actively pursued a campaign against me by contacting (1) central UIC administration, (2) my dean, (3) Instagram, (4) LinkedIn, (5) Channel 2 news, and perhaps to other news outlets, too, and (6) formally filing a complaint with the Office of Access and Equity. This is the office at UIC that deals with instances of alleged discrimination and harassment. When my dean mentioned to me that there was some issue with my question, I suggested the notion of my expressing regret for distressing anyone, and the dean put me in touch with the OAE for their view. A representative from that office was provided the question and the context, and we had a Zoom call that very evening, in which the rep assured me I had done nothing at all wrong, but she supported my idea to express regret if I my re-use of that question made anyone feel uncomfortable. I did that, and here we still are ...

I love my students—EACH AND EVERY ONE of them, and I’ve gone out of my way to be supportive of the careers of women of color and others. I’ve done my best to use the same first-letter reference to that word that I see all over the internet, including in the commentary of people explaining that it is entirely inappropriate to use the word—and they reference it as “the n-word”—again, which is exactly what I did. For me to be cast as some sort of insensitive bigot because I used the very same first-letter reference to a horrible word that Civil Procedure is designed to root out and address is ... a disservice to the role that law plays in our troubled society and the role that we lawyers have to play in rooting it out and eradicating it.

The law school provided this statement about the incident:

The Law School recognizes the impact of this issue. Before winter break, Dean Dickerson apologized to the students who expressed hurt and distress over the examination question. The Law School acknowledges that the racial and gender references on the examination were deeply offensive. Faculty should avoid language that could cause hurt and distress to students. Those with tenure and academic freedom should always remember their position of power in our system of legal education.

The Law School is working with UIC’s Office for Access and Equity to conduct a thorough review of this matter, and Dean Dickerson and other Law School and University leaders have scheduled a meeting with student leaders. We remain committed to ensuring that all of our students have a safe and supportive environment and that all members of the Law School community live up to our shared values.

It seems like an honest an open conversation is exactly what’s needed. Whether you think Kilborn should have included that particular detail in the exam is a fair question, but he at least tried to be aware of the sensitive nature of the topic and seems committed to doing better.



Kathryn Rubino is a Senior Editor at Above the Law, and host of [The Jabot podcast](#). AtL tipsters are the best, so please connect with her. Feel free to email [her](#) with any tips, questions, or comments and follow her on Twitter ([@Kathryn1](#)).

TOPICS

Final exams, Jason Kilborn, John Marshall Law School (Chicago), Law Schools, N-word, UCI Law

Above the Law daily newsletter

Subscribe Now

We will never sell or share your information without your consent. See our privacy policy.

Recommended



A Strategic Approach: Tips For Growing Your Legal Practice During Economic Uncertainty

